

Appl. No. : 10/747,812
Filed : December 29, 2003

REMARKS

The foregoing amendments present claims in better form for consideration on appeal. Therefore, Applicants have complied with 37 C.F.R. § 1.116(b)(2), and Applicants request that the Examiner enter the amendments for purposes of the appeal. The Notice of Appeal is also being filed herewith. In response to the January 24, 2007, Final Office Action, Applicants also submit the following comments for consideration by the Examiner:

Rejection of Claims 1, 6-7, 10-13, 16, 18, 19, 22 and 26-28 Under 35 U.S.C. § 103 (a)

In paragraph 2 of the Office action, the Examiner rejected Claims 1, 6-7, 10-13, 16, 18, 19, 22 and 26-28 under 35 U.S.C. § 103(a) as obvious over U.S. Patent No. 6,298,638 to Bettle (“Bettle”) in view of U.S. Patent No. 4,815,256 to Brown et al. (“Brown”). Applicants have now amended Claims 1 & 22.

In response to arguments presented in the previous response dated November 13, 2006, the Examiner found that Claims 1 and 22 did not explicitly recite that the flexible pouch was deposited in a rigid container and thereafter released from its neck portion. Applicants have now amended the claim to more explicitly recite this limitation.

Applicants have amended Claim 1 to recite “placing the filled pouch in a rigid container prior to being released from the neck portion by the positive transfer system; and releasing the neck portion of the filled pouch from the positive transfer system.” Applicants have amended Claim 22 to recite “placing the pouch in a rigid container prior to releasing the neck portion; and releasing the preform neck portion of the flexible pouch from the preform handling system.

As neither Brown nor Bettle teaches or suggests the limitation that the flexible pouch is deposited in a rigid container and thereafter released from its neck portion, Applicants believe that Claims 1 and 22 are patentable over the combination of Brown and Bettle. As the Examiner indicated in the *Office Action* dated July 11, 2006, Bettle does not disclose that the handling system discharges the container into a rigid container. Also, Brown only discloses that a container is dropped into a delivery chute, and thus is not delivered to a rigid container and thereafter released from its neck portion.

Because the cited references Bettle and Brown fail to teach the limitation that neck portion of the flexible pouch is released after placing the pouch in a rigid container, the Examiner

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has failed to set forth a *prima facie* case of obviousness. Thus, Applicants respectfully request that the Examiner withdraw this rejection and pass Claims 1 and 22 to allowance.

Accordingly, Applicants respectfully submit that Claims 1 and 22 are allowable over the combination of Bettle and Brown. Claims 2-3, 6-9, 23-24, 26-30 depend from Claims 1 and 22, and further define the inventions defined in Claims 1 and 22. Thus, Claims 2-3, 6-9, 23-24, 26-30 are also patentably distinguished over Bettle and Brown for at least the reasons set forth above with respect to Claims 1 and 22, as well as for other novel and nonobvious features recited therein.

Rejection of Claims 10 Under 35 U.S.C. § 103(a)

Claim 10 was rejected by the Examiner as obvious over Bettle in view of U.S. Patent No. 4,305,772 to Valyi. Applicants maintain that neither reference teaches the element of “flexible, non-self supportive pouches” as is recited in Claim 10. Applicants maintain that neither reference teaches a handling system is adapted to place the flexible pouch in rigid container and thereafter release the flexible pouch by the neck finish, as is recited by independent Claim 10. Applicants also maintain that Bettle is not properly combinable with Valyi since Bettle’s intended function of capping the container would be destroyed by the apparatus described by Valyi II.

Accordingly, Applicants respectfully submit that Claim 10 is allowable over the combination of Bettle and Valyi. Claims 11-15 and 17-21 depend from Claim 10 and further defines the invention defined in Claim 10. Thus, these claims are also patentably distinguished over Bettle and Valvi for at least the reasons set forth above with respect to Claim 10, as well as for other novel and nonobvious features recited therein.

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Conclusion

For the foregoing reasons, it is respectfully submitted that the rejections set forth in the outstanding final *Office Action* are inapplicable to the present claims. Applicants do not concede or acquiesce to any of the rejections in the final *Office Action*. Applicant is herewith filing a Notice of Appeal to further present their arguments to the Board of Patent Appeals and Interferences.

Any remarks herein in support of patentability of one claim should not be imputed to any other claim, even if similar terminology is used. Any remarks referring to only a portion of a claim should not be understood to base patentability on solely that portion; rather, patentability must rest on each claim taken as a whole.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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Dated: May 16, 2007

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